

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

David L. Henderson, #255117,)	
)	C/A No.: 9:06-1696-MBS
Petitioner,)	
)	
vs.)	
)	
Richard Bazzle, Warden, Perry)	
Correctional Institution; Henry Dargan)	ORDER
McMaster, Attorney General for)	
South Carolina,)	
)	
Respondents.)	
)	

Petitioner David L. Henderson is an inmate in custody of the South Carolina Department of Corrections. He currently is housed at the Perry Correctional Institution in Pelzer, South Carolina. Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

This matter is before the court on motion for summary judgment filed by Respondents on July 28, 2006. Respondents assert that the within petition was not filed within the one year limitations period set forth in 28 U.S.C. § 2244(d)(1)(A). By order filed July 31, 2006, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Petitioner filed a response to Respondents' motion on August 21, 2006.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge George C. Kosko. On September 18, 2006, the Magistrate Judge filed a Report and Recommendation in which he recommended that Respondents' motion for summary judgment be granted and the petition be dismissed as time-barred. Petitioner did not file objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Respondents' motion for summary judgment is **granted** and the petition dismissed.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

October 17, 2006

Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.